AGENDA
ASSEMBLY BUDGET SUBCOMMITTEE NO. 4 ON STATE ADMINISTRATION

Assemblymember Warren Furutani, Chair

WEDNESDAY, MAY 12, 1:30 PM
STATE CAPITOL, ROOM 437

CONSENT CALENDAR

VOTE ONLY

ITEMS TO BE HEARD

CONSENT ITEMS

8950 CALIFORNIA DEPARTMENT OF VETERAN AFFAIRS

ISSUE 1: NORTHERN CALIFORNIA VETERANS CEMETERY EXPANSION

Working drawings for the Northern California Veterans Cemetery, located in Redding, were approved in 2009-10 for a scope change of 120 columbarium niches. Since then, the United States Cemetery Grant Program has indicated that they will now fund a new total of 2,000 niches. This proposal seeks a funding adjustment to satisfy the new scope. The Department requests $1.2 million in new funds and reverts $658,000 in funds.

STAFF COMMENT

State Funds of $50,000 for design are provided from existing funds in the Northern California Veterans Cemetery Master Development Fund. The remaining funds of $1.1 will be provided by the USDVA State Cemetery Grant Program.

Staff Recommendation: Approve as budgeted.

VOTE-ONLY ITEMS

0690 CALIFORNIA EMERGENCY MANAGEMENT AGENCY

ISSUE 1: FORENSIC SCIENCE IMPROVEMENT ACT WITH ADJUSTMENTS

Governor's Budget Proposal. The Governor's budget requests an increase of $608,000 Federal Trust Fund authority, to fully utilize available funding from the United States Department of Justice (DOJ), Office of Justice Programs (OJP) and the National Institute of Justice (NIJ).

Background. Funding comes from the Paul Coverdell Forensic Science Improvement Act (FSIA) grant from the NIJ. California is anticipated to be awarded $1,811,000 2009, for implementation during 2010-11. The grant provides local assistance funding to state and local agencies for criminal forensics programs. The Department notes that during 2008-09, this program has reduced the time required for forensic examinations by 341 days. For the past three years the Paul Coverdell Forensic Science Improvement Act (FSIA) formula grant from the NIJ has been steadily rising. In fact, California will be receiving $2,694,783 – exceeding the 10 percent increase expected.

Staff Recommendation: Approve increased federal fund authority of $119,000 for State Operations and $1,373,000 for local Assistance. Previous Subcommittee action did not award State Operations funding for this grant. This action conforms to the Senate Subcommittee Action.

ISSUE 2: EQUALITY IN PREVENTION AND SERVICES FOR DOMESTIC ABUSE PROGRAM

Governor's Budget Proposal. The Cal EMA requests a reduction of $75,000 ($25,000 in State Operations and $50,000 local assistance) to the Equality in Prevention Services for Domestic Abuse (EPSDA) Fund authority to match the anticipated revenue that will be received in 2010-11.

Background. The Cal EMA has provided state and federal funding for victims of Domestic Violence (DV) for over twenty years. The implementation of Assembly Bill 2051 (2006) required the Department to establish a targeted or directed mini-grant program for the development and support of DV programs and services for the lesbian, gay, bi-sexual, and transgender (LGBT) community – known as The Equality in Prevention Services for Domestic Abuse (EPSDA).

Historically, this community has not sought services provided by traditional DV shelters. The EPSDA attempts to provide, expand, and raise awareness of same-sex violence and the ability to access services.

Funding for this program is established at the Secretary of State's Office and is called the EPSDA fund. The fund is derived from a $23 fee for same sex couples who register as domestic partners. The brief May 2008 California Supreme Court ruling, which legalized same-sex marriage negatively, affected the baseline funding for the EPSDA fund. The decline in couples registering as domestic partners slowed the account drastically. As a result, in 2007-08, a $300,000 appropriation of Restitution funds was transferred to the EPSDA fund and an additional $400,000 in 2008-09. However, the State is unable to provide Restitution Funds in subsequent years.

In 2009-10 a Budget Change Proposal reduced the programs Local Assistance budget to $120,000 and the State Operations to $60,000. This proposal will further reduce the Local Assistance budget to $70,000 and State Operations to $38,000. This is a total EPSDA authority reduction of $75,000.

STAFF COMMENT

The EPSDA program is an important program that administers a 24-hour crisis hotline, counseling, emergency shelter, court and social services advocacy, and legal assistance. Other than the EPSDA fund, there are limited state and federal funds for this program that address a void for an underserved and unserved population. In the past, Restitution Funds were available to supplement the EPSDA fund, however, the financial climate has made that impossible. Alternatively, the Cal EMA currently uses 35 percent of the grant total to administer the grant. This is an exorbitant amount and above the average across the Departments, which is a maximum of 10 percent.

Modifying the percentage used for State Operations to just about 10 percent, would provide $28,000 more for direct domestic violence services than would have been provided under the Governor's budget proposal.

Staff Recommendation: Approve total reduction of $75,000 in expenditure authority, to be consistent with the anticipated revenues, but modify allocation of reduction with -$53,000 for state operations and -$22,000 for local assistance. This action will result in just under 10 percent ($10,000) for state operations and about 90 percent ($98,000) for local assistance.

Issue 3: Emergency Response Fund –Fee Collection

Governor's Budget Proposal. The Governor's budget includes the proposal to designate the Cal EMA as the fee collecting agency for the Emergency Response Fund (ERF). The ERF will add a Section to the Insurance Code to create the Fund that will be supported through an insurance surcharge.

The proposal request, one-half year's funding to establish 5.0 positions and $792,000 in authority for the Fee Collections, Audit/Compliance Units, to become effective January 1, 2011. The full-year cost of $1.6 million Emergency Response Fund authority and 10.0 positions will occur in 2011-12 and on-going. If approved, this proposal would begin collection January 1, 2011.

Background. If approved by the Legislature, effective July 1, 2010, insurance companies in California would be required to collect a special purpose surcharge on commercial or residential insurance policies. The surcharge would be equivalent to 4.8 percent of the insurance premium. Generated revenue would be distributed, upon appropriation, to Cal EMA, the Department of Forestry and Fire Protection (Cal Fire), and the Military Department.

A Cal EMA Fee Collection Unit will complete monthly fund reconciliation and an Audit Compliance Unit will provide periodic (at least quarterly) audit findings. The additional 5.0 position in 2010-11 and the 10.0 positions in 2011-12 will make up these units.

STAFF COMMENT

Unless the Emergency Response Initiative is approved, this proposal is not necessary. Additionally, the possibility of having the Board of Equalization serve as the Fee Collection and Audit Unit should be sought, as it is the States Fee Collecting body and perhaps, the most appropriate agency to collect these fees. Furthermore, the outcome of the ERI is undetermined and it is premature to select a fee collecting agency.

Staff Recommendation: Reject the Governor's Budget Proposal.

ITEMS TO BE HEARD

0250 JUDICIAL BRANCH

The California Constitution vests the state's judicial power in the Supreme Court, the Courts of Appeal, and the Trial Courts. The Supreme Court, the six Courts of Appeal, and the Judicial Council of California, which is the administrative body of the judicial system, are entirely state–supported. The Trial Court Funding program provides state funds (above a fixed county share) for support of the trial courts. *Chapter 850, Statutes of 1997 (AB 233, Escutia and Pringle),* shifted fiscal responsibility for the trial courts from the counties to the state.

The following are expenditures and positions (dollars in thousands):

	2008-09 (actual)	2009-10 (estimated)	2010-11 (proposed)
Expenditures	$3,752,726	$2,194,469	$3,413,723
Personnel Years	1,859.0	2,029.2	2,032.0

Significant changes reflected in the 2010-11 Governor's budget include:

- A reduction in 2009-10 of $1.5 billion to account for local reimbursements pursuant to Control Section 15.45. In 2010-11, local reimbursements are estimated to be $350 million;

- A General Fund reduction in 2010-11 of $296.9 million to reflect new revenue from an Automated Speed Enforcement Proposal;

- An increase of $41 million, also from Automated Speed Enforcement Revenue, for trial court security;

- A General Fund augmentation in 2010-11 of $100 million to restore the trigger reduction included in the 2009 Budget Act. However, this funding is also included in the Governor's 2010-11 trigger proposal; and,

- A General Fund augmentation of $17.9 million in 2010-11 to fund trial court employee retirement costs and employee and retiree health benefit costs.

ISSUE 1: BUDGET TRANSPARENCY

The Assembly Committee on Accountability and Administrative Review
The Assembly Committee on Accountability and Administrative Review voted at its January 20, 2010 hearing to recommend that the Assembly Budget Committee work with the AOC to expand the information it provides to the Legislature regarding the Judicial Branch budget.

Trial Court Trust Fund Provision 5
In a letter dated January 8, 2010, the Joint Legislative Budget Committee was notified of the Department of Finance's intent to provide the Judicial Branch with increased expenditure authority of $23.7 million in 2009-10 from the Trial Court Trust Fund for various costs related to the trial courts. This letter was issued pursuant to Provision 5 of Item 0250-101-0932 of the 2009-10 Budget Act.

BACKGROUND

Below are the specific recommendations from the Assembly Committee on Accountability and Administrative Review:

1. **Require that the courts' annual budget provide line items for each of the 11 divisions within the Administrative Office of the Courts.** Currently there is no breakdown of spending on divisions within the AOC.

2. **Require the Administrative Office of the Courts to annually provide an Operating and Expense Schedule.** An O&E Schedule depicts spending trends on items such as travel and outside consultants. Executive branch agencies annually provide these with the budget; the AOC currently does not.

3. **Require that the courts' annual budget provide more detail regarding the Trial Court Trust Fund.** There is no breakdown in the budget depicting spending on items such as security or information technology, whose aggregate costs total more than $1 billion annually. The AOC could coordinate with the Budget Committees and Department of Finance to agree on the proper line items.

4. **Require legislative notice for intraschedule transfers.** Currently there is no requirement paralleling executive branch agencies that the courts report transferring monies among different schedules in the same fund. Executive branch agencies are required to report any transfer in excess of $200,000 or 10 percent of the amount appropriated in the item to the Budget Committees in each house of the Legislature and the Chairperson of the Joint Legislative Budget Committee. The Legislature could ask that the Judicial Council follow the same procedure.

5. **Require that the Judicial Council's next annual report regarding Information Technology projects provide total estimated costs of the CCMS project and a funding plan.** The AOC should develop a total cost for CCMS, including anticipated costs to law enforcement and other agencies, and a plan for financing the final phases of CCMS.

Trial Court Trust Fund Provision 5
Provision 5 of Item 0250-101-0932 allows for an increase in expenditure authority as follows:

Upon order of the Director of Finance, the amount available for expenditure in this item may be augmented by the amount of any additional resources available in the Trial Court Trust Fund, which is in addition to the amount appropriated in this item. Any augmentation shall be authorized no sooner than 30 days after notification in writing to the chairpersons of the committees in each house of the Legislature that consider appropriations, the chairperson of the committee and appropriate subcommittees that consider the State Budget, and the Chairperson of the Joint Legislative Budget Committee, or not sooner than whatever lesser time the chairperson of the joint committee or his or her designee may determine.

This provision has raised concern that the Legislature's ability to set appropriations, especially in difficult fiscal times, can be circumvented in respect to funding for state trial courts.

COMMENTS

Staff has been working with the AOC to address the recommendations of the Accountability and Administrative Review Committee. While all of the issues raised above may not be addressed in the current budget process, it is recommended that the subcommittee take action on three of these issues (O&E Schedule, Trial Court Trust Fund detail, and Intraschedule transfers). In addition the subcommittee should consider amending the Budget Provisional Language that allows the AOC to augment Trial Court Trust Fund expenditure authority.

Staff Recommendation:
1. Approve Supplemental Report Language to require the annual submittal of an O&E Schedule:
2. Approve Supplemental Report Language to require additional breakout of the Trial Court Trust Fund Item within the Governor's Budget Detail Expenditures by Program display;
3. Delete Provision 1 of Items 0250-001-0001 and 0250-101-0932; and,
4. Revise Provision 5 of Item 0250-101-0932 to require DOF and Legislative approval and require a copy of requests to be provided to the Legislature at the same time of submittal to DOF.

ISSUE 2: FACILITY MODIFICATION FUNDING

The Governor's Budget proposes a $35 million two-year limited-term increase from the State Court Facilities Trust Fund (including $5 million in Reimbursement Authority) to support facility modification projects.

BACKGROUND

SB 1732 (the Trial Court Funding Act of 2002) was enacted for the purpose of transferring the responsibility for trial court facilities to the Judicial Council. In December 2005, to address improvements to existing facility infrastructure, the Judicial Council approved a policy for the categorization and prioritization for court facility modifications.

Facility modifications, as defined by the Administrative Office of the Courts (AOC), are any physical modification to a facility that restores or improves the function of the facility; except when it is routine maintenance, increases the facility's gross area, or changes the use of the facility. Facility modifications range from major repairs to renovations and system renewals. Facility modifications are defined by the nature of work and not by dollar amount.

The AOC categorizes facility modifications into six priorities: 1) Immediate or potentially critical; 2) Necessary but not yet critical; 3) Recommended; 4) Does not meet current codes or standards; 5) Beyond rated life, but serviceable; and, 6) Hazardous materials, managed but not abated.

The Trial Court Facility Modification Working Group (Working Group) is charged with review and funding approval of facility modification projects. The Working Group meets bi-monthly to review facility modification requests and provide overall guidance to the AOC on the prioritization and funding of facility modifications.

The current facility modification budget for 2010-11 is $50 million, plus $10 million in reimbursements (for projects undertaken in shared-use facilities). The AOC reports that they currently have approximately 3,850 identified projects statewide.

COMMENTS

Notwithstanding the merits of this request, this proposal should be held open pending reconciliation of total funding for the state's trial courts in the budget year.

Staff notes that budget bill language has been recommended that would require the AOC to report quarterly on detail (including project description and cost) of facility modification projects.

Staff Recommendation: Approve increase of $1 million for facility modifications. This action will send this issue to Conference pending agreement on Trial Court funding plan.

ISSUE 3: STATE COURT FACILITIES TRUST FUND PROJECTS

The Governor's budget proposes $845.7 million in Lease Revenue Bond Authority for the construction phase of seven projects. The State Court Facility Construction Fund will support the annual lease revenue bond debt service payments.

BACKGROUND

The seven projects are:

1. ***Madera County – New Madera Courthouse ($88.2 million).*** Will support the construction phase of a new ten-courtroom, 99,879 square foot courthouse in downtown Madera in Madera County. This project will consolidate two court locations with seven courtrooms and addresses security and crowding issues currently facing the court.

2. **San Bernardino County – New San Bernardino Courthouse ($304.7 million*).*** Will support the construction phase of a new 35-courtroom and 2-hearing room, 356,390 square foot courthouse in the city of San Bernardino in San Bernardino County. The project will consolidate court operations from nine facilities and will address space, security, and building issues currently facing the court.

3. ***San Joaquin County – New Stockton Courthouse ($243.3 million).*** Will Support the construction phase of a 30-courtroom, 282,763 square foot courthouse in Stockton and San Joaquin County.

4. ***Riverside County – New Riverside Mid-County Region Courthouse ($54.5 million).*** Will support the construction phase of a new six-courtroom, 60,725 square foot courthouse in the city of Banning in Riverside County. This projects replaces the existing two-courtroom facility in Banning.

5. ***Tulare County – New Porterville Courthouse ($81 million).*** Will support the construction phase of a new nine-courtroom, 90,000 square foot courthouse in Porterville in Tulare County.

6. ***San Benito County – New Hollister Courthouse ($33.5 million).*** Will support the construction phase of a new three-courtroom, 42,870 square foot courthouse in the city of Hollister in San Benito County.

7. ***Calaveras County – New San Andreas Courthouse ($40.4 million).*** Will support the construction phase of a new four-courtroom, 39,878 square foot courthouse in the city of San Andreas in Calaveras County.

COMMENTS

These projects have all been approved through the acquisition, preliminary planning, and working drawing phases. Additionally, since the debt service will be supported by the State Court Facilities Trust Fund, the cost of these construction projects will not require General Fund support. However, approval of these proposals should be consistent with complete 2010-11 funding plan for the state's trial courts.

Staff Recommendation: Approve $1 million for each of the seven projects outlined in this proposal. This action will send this issue to Conference pending agreement on Trial Court funding plan.

ISSUE 4: IMMEDIATE AND CRITICAL NEEDS ACCOUNT PROJECTS

The Governor's budget proposes $73.7 million ($23.7 in Lease Revenue Bond Authority and $50 million from the Immediate and Critical Needs Account Fund) support two court construction projects. The Immediate and Critical Needs Account Fund will support the annual lease revenue bond debt service payments.

BACKGROUND

The two projects are:

1. ***Solano County – Renovation to Fairfield Old Solano Courthouse ($23.7 million).*** Will support the working drawings and construction phase for renovation of the Old Solano Courthouse to provide three-courtrooms for civil cases. The 29,900 square foot courthouse is now vacant and is one of the few standing historic courthouses in the State of California.

2. **Alameda County – New East County Courthouse ($50 million*).*** Will support the state's contribution to the construction phase of a new 13-courtroom, 148,031 square foot courthouse in the city of Dublin in Alameda County. This project is for a shared use facility with the county. The county will finance and manage the design and construction of the project.

COMMENTS

Previous phases of these projects have been approved in prior budgets. Additionally, since the debt service will be supported by the State Court Facilities Trust Fund and the Immediate and Critical Needs Account Fund, the cost of these construction projects will not require General Fund support. However, approval of these proposals should be consistent with complete 2010-11 funding plan for the state's trial courts.

Staff Recommendation: Approve $1 million for each of the two projects. This action will send this issue to Conference pending agreement on Trial Court funding plan.

ISSUE 5: COURTS LEGISLATIVE PROPOSALS

The courts have identified the following two issues, which require statutory changes that have been proposed to be included in budget trailer bill language.

1. ***Comprehensive Collections Program.*** During discussions on SB 1407 (Perata) the AOC and the California State Association of Counties (CSAC) codified a joint commitment to examine mechanisms to enahance collection of court ordered debt. The AOC and CSAC identified the following elements intended to improve the overall return on collection efforts and improve recovery efforts statewide, these elements are: 1) Strengthen existing authority and responsibility for a comprehensive collections program of delinquent court-ordered debt; 2) Develop and implement an amnesty program; 3) Clarify authority related to discharge of accountability; 4) Pursue intercept proposal on unclaimed property in cooperation with the State Controller's office; 5) Clarify authority for enforcing court-ordered debt beyond the 10-year period applicable to civil judgments; and 6) adjust threshold for forfeiture amounts that can be established by the court's.

2. ***GC Section 7600(e) Fix.*** SB 1732 (Escutia) added subdivision (e) to GC Section 7600 to address the amount of surcharge that could be collected for a "local courthouse construction fund established by Section 76100 as of January 1, 1998 when the money in the fund is transferred to the state under Section 70402" (i.e. after a county transfers all of its trial court facilities to the state). The limitation contained in subdivision (e) were not intended to affect or limit the amount of surcharge that can be collected to support other local funds such as Criminal Justice Facility Funds.

   This proposal intends to revise the table contained in subdivision (e) to reflect the amount that Plumas County ($7.00) needs to support its Criminal Justice Facility Construction Fund and Maddy Emergency Medical Services Fund.

COMMENTS

Staff has been working with the AOC and CSAC in an effort to draft language for these proposals that will meet objectives of all parties and address any concerns that have been raised.

Staff Recommendation: Approve Trailer Bill Language for a Comprehensive Collections Program and to amend Government Code Section 7600, direct staff and the AOC to work together to finalize language.

ITEM 1110/1111 DEPARTMENT OF CONSUMER AFFAIRS

ISSUE 1: BUREAU OF AUTOMOTIVE REPAIR – AB 118 FUNDING

AB 118 of 2007 enacted the California Alternative and Renewable Fuel Vehicle Technology, Clean Air, and Carbon Reduction Act of 2007, and established the Enhanced Fleet Modernization (EFM) Program. The bill required the California Air Resources Board, in consultation with the State Bureau of Automotive Repair (BAR), to adopt by July 1, 2009, guidelines for the EFM program. The program was to be designed to compensate vehicle owners that voluntarily retire or replace passenger cars or light-duty trucks that are high polluters. The program was required to commence on January 1, 2010.

The program is funded by a $1 fee imposed on all vehicle registrations beginning July of 2009.

COMMENTS

BAR has offered a vehicle retirement program for many years under the Consumer Assistance Program (CAP). <u>The Committee may wish to ask BAR to explain how the EFM program will differ from CAP.</u> Additionally, prior BAR efforts to retire and repair high-polluting vehicles have often held large surpluses, and been unable to adequately expend those funds to achieve their intended purpose. <u>The Committee may wish to ask how the ARB and BAR have attempted to structure this new program in such a way to ensure success. The Committee may wish to further inquire if the ARB and BAR have reviewed the recent federal “Cash for Clunkers” program for insights into what will and won’t work to most efficiently and effectively remove high-polluting vehicles from the road.</u>

It is staff’s understanding that no funds have yet been expended for the purpose of the EFM program, despite statutory requirements to have the program commence on January 1, 2010. <u>The Committee may wish to ask BAR when they expect to have the program in operation, and why it is late.</u>

Additionally, the new draft regulations restrict any participant from using this program if they receive federal credits towards the same vehicle. <u>The Committee may wish to ask what benefit is achieved by limiting access, when such “double dipping” may in fact be a way to incentivize participants the state could not incentivize on it’s own.</u>

The Committee may wish to ask the ARB and BAR to report back with responses to all the above inquiries (summarized below) to allow the committee – in combination with Assembly Budget Sub-Committee 3 who has oversight over the ARB – to adequately review these efforts.

How does the proposed design for the new program differ from CAP?
What lessons have you learned from CAP and Cash for Clunkers, and how are those lessons incorporated into the draft program guidelines?

1) Why is this program running behind schedule?

2) When will funds begin to be disbursed through this program?

3) Why aren't vehicles with temporary operating permits eligible?

4) Why aren't vehicles receiving federal benefits eligible under the draft guidelines?

5) How were the amounts for vouchers and the retirement of vehicles determined?

Staff Recommendation: Request follow up on the questions posed above.

9800 AUGMENTATION FOR EMPLOYEE COMPENSATION

ISSUE 1: HEALTH BENEFIT RATE ADJUSTMENT

Health Benefit rates are updated yearly by CalPERS in June. The amounts included in the Governor's budget are essentially placeholder estimates.

The 9800 budget Item reflects funding augmentation amounts for state employee compensation adjustments. If the Legislature has already appropriated money to pay for the economic terms of employee compensation, the funding for these economic terms is included in departments' budgets. When new economic terms require funding not yet approved by the Legislature, the appropriations for those economic terms are included in this budget. Below are the amounts included in the Governor's budget for this Item (Dollars in Thousands):

	2009-10	2010-11 (estimated)
General Fund		$25,638
Unallocated Special Funds	$5,500	$34,321
Unallocated Non-Gov Cost Funds		$14,195

Staff Recommendation: Subtract $1,000 from the amount appropriated for each fund to send to conference and wait for updated health benefit rates to update the final appropriation.

9801 REDUCTION FOR EMPLOYEE COMPENSATION

ISSUE 1: REDUCTION FOR EMPLOYEE COMPENSATION

The Governor's Budget proposed to achieve state employee salary and workforce savings totaling $1.6 billion GF ($2.9 billion all funds) in 2010-11, consisting of:

1. “5-5-5” Plan

- 5 percent across-the-board salary reduction ($529.6 million GF, $278.5 million Special Funds (SF), $137.2 million Non-Governmental Cost Funds (NGC)). Trigger : The Governor's budget also proposed that If the federal government fails to provide $6.9 billion in funding, an additional 5 percent salary decrease for state employee compensation would occur.

- 5 percent increase in employee pension contributions, reducing employer contributions by a like amount ($405.8 million GF, $213.3 million SF, $105.1 million NGC).

- 5 percent reduction to departmental personnel costs via Executive Order S- 01-10 requiring agencies and departments to cap the size (reduction of 8,915.7 PYs) and cost of the workforce by July 1, 2010 ($449.6 million GF, $236.4 million SF, $116.4 million NGC).

2. Health Care Savings

The Governor proposes to authorize the state to contract for lower-cost health care coverage either directly from an insurer or through CalPERS ($152.8 million GF, $64.6 other funds). This proposal is identical to the Administration's proposal that was rejected by the Legislature last year.

3. Pre-funding for Health and Dental Benefits for Annuitants

Proposes a workload decrease for pre-funding other post employment benefit costs (it is not currently state policy to pre-fund Other Post Employment Benefits except for CHP officers which is $5.5 million special funds) ($98.1 million GF).

COMMENTS

Collective bargaining (Dills Act; 1977) requires the Administration to meet and confer in good faith with unions who must also meet and confer in good faith. Through negotiation, the parties reach agreement on MOUs delineating key terms of employment. MOUs must be approved by the bargaining unit and key provisions (i.e., requiring expenditure of funds) must be approved by the Legislature. The Governor proposes to implement the salary cut and pension increase notwithstanding existing law.

The Administration expects that attrition will be the primary factor in achieving the salary savings required under S-01-10; plans were required to be submitted by Feb. 1 and implemented by March 1. Savings from operating expenses and equipment cannot be used to meet the reduction target.

The LAO recommends that unallocated reductions be avoided, particularly for CDCR and finds there is inadequate justification to make unallocated reductions for special and federal funds. The LAO also recommends that the Legislature consider salary reductions for rank-and-file employees.

Staff Recommendation:

1. Approve savings of $449.6 million pursuant to Executive Order S-01-10 and revise Control Section 3.90 to reflect this action and to prioritize how departments and agencies shall make the required personnel cuts as well as score an additional $130 million General Fund savings in Operating Expenses & Equipment.

2. Approve $98.1 million in savings associated with pre-funding post employment benefits.

3. Reject increase in employee pension contribution and across the board salary reduction components of the 5-5-5 Plan.

4. Reject the Governor's proposal to authorize the state to contract for lower-cost health care coverage.

ITEM 0860 BOARD OF EQUALIZATION

ISSUE 1: FUEL TAX SWAP ADMINISTRATIVE COSTS

This issue was discussed at the April 27 Sub-Committee meeting, but was held open upon direction from the Chair.

BOE administers the sales and use tax and various excise taxes on vehicle fuels. The Legislature approved ABx8 6 and SB 70 (the Fuel Tax Swap) which will result in (i) a reduction in the sales tax on gasoline and an increase in the excise tax on gasoline effective July 1, 2010, and (ii) an increase in the sales tax on diesel and a decrease in the excise tax on diesel, effective July 1, 2012. The Fuel Tax Swap also requires annual calculations and potential tax rate adjustments in order to maintain revenue neutrality.

Under the Fuel Tax Swap, BOE administrative responsibilities will expand as a result of potential annual increases and decreases in the tax rate. These responsibilities include reprogramming the Integrated Revenue Information System (IRIS); revising returns, notices and other forms; notifying taxpayers; and, registering taxpayers for the floor stock taxes. An increasing rate could result in more motor vehicle fuel accounts being subject to audit. Varying rates will also add complexity to refund processing and require additional field audits. This Finance Letter requests $1.5 million ($1.2 Motor Vehicle Fuel Account) for 2010-11 and $1.4 million ($1.1 Motor Vehicle Fuel Account) to administer the Fuel Tax Swap. This augmentation would add 11.4 PYs on an on-going basis.

Funding Source	2009-10 (000s)	2010-11 (000s)	2011-12 (000s)
General Fund		$138	$118
Special Funds		$1,249	$1,128
Reimbursements		$151	$129
Total		$1,538	$1,375

STAFF COMMENTS

Some of the activities identified by the department appear to be short-run costs that should eventually decline as taxpayers get used to the annual adjustments. Of the 11.5 positions, only 2 are temporary (limited term and temporary overtime). The suggested increased workload due to increased complexity that would be expected to decline over time and warrant positions associated with short-term costs to be limited-term.

BOE staff suggests that on the excise tax side, costs will increase because more revenue is at risk. On the sales tax side, they indicate that cost will go up due to complexities because the sales tax change is a partial exemption. The argued increase in complexity is not clear, since the state already has additional partial exemptions for farm and related machinery.

Staff Recommendation: Approve 10 positions, 8 in 2010-11 and 2 in 2011-12. Convert ½ of permanent positions to 2-year limited-term.

ISSUE 2: REPORTING LANGUAGE FOR TAX AGENCIES

Board of Equalization and Franchise Tax Board have received augmentations for the purposes of increasing revenues though expanded and improved audit and collections activities, as well as other related efforts to improve compliance and enforcement efforts. Legislative oversight may be advisable to ensure that such additional resources are deployed in an effective and efficient manner. Currently, both agencies have annual reporting requirement regarding their revenue collection activities.

Staff Recommendation:

Direct staff to consult with BOE and FTB to draft reporting language or amend existing language to evaluate the effectiveness of recent budget augmentations.

ITEM 1730 FRANCHISE TAX BOARD

ISSUE 1: FEDERAL TREASURY OFFSET PROGRAM

This issue was discussed at the April 27 Sub-Committee meeting, but was held open upon direction from the Chair.

FTB's compliance efforts benefit significantly from the interchange of data with other state departments and the federal government. Cross–matching data increases the likelihood of reaching successful conclusions in enforcement efforts and also increases the speed with which such activities are concluded. One of these cooperative programs is the Federal Treasury Offset Program (FTOP) which allows the state to collect on tax liabilities through a reduction in the amount of federal refunds owed to federal taxpayers.

Federal law provides authority for the federal government to collect various past due liabilities owed to states—including state tax obligations—by reducing the amount of refunds owed to its taxpayers. In return, the federal government requires states participating in the program to offset against state refunds certain federal obligations past due. Forty states currently participate in this federal program; California is only one of two states with a state income tax that does not currently participate. In 2008, the program resulted in $380 being collected for participating states.

The FTOP project will consist of four phases. The first phase will incrementally expand the current pilot program as well as begin the design, development and enhancements of FTB's accounting and collection systems for personal income tax cases. The second phase will begin the automatic transmission of personal income tax data to the federal program. Phases three and four will implement a similar program for businesses entities. This proposal is for phases one and two and consists of a request for $847,000 and 11 positions.

Project Estimates	2010-11 ($ millions)	2011-12 ($ millions)	2012-13 ($ millions)	2013-14 ($ millions)	Total ($ millions)
Revenue	$6.0	$80.0	$113.0	$93.0	$292.0
Expenses	$1.8	$3.6	$2.8	$2.8	$11.0
Net Revenue	$4.2	$76.4	$110.2	$90.2	$281.0

STAFF COMMENTS

The Federation of Tax Administrators (FTA) considers the offset program an effective collection tool for states to use. Its effectiveness was demonstrated in a pilot program put in place last year by FTB. The program effectiveness is demonstrated not only through the offsets actually made, but the number of taxpayers who—upon receiving a Notice to Offset from FTB—chose to submit payment directly to FTB. The initial year of the project has a benefit:cost ratio of 3.3:1. Once established, the project is estimated to have a benefit:cost ration of 33:1.

Staff Recommendation: Approve.

ISSUE 2: RESTORATION OF FURLOUGH REVENUE

This issue was discussed at the April 27 Sub-Committee meeting, but was held open upon direction from the Chair.

As indicated above under the general discussion of the FTB and staffing level, the Department was significantly affected by the furlough program in terms of revenue generation. This request would serve two purposes. It would:

1. Exempt FTB from any furlough requirements if the furloughs were to continue—which, in the Governor's Budget they are not; and,
2. Provide additional temporary resources for the agency to address the backlog in various divisions that occurred due to the furlough program.

In the current year, FTB directed staff toward workload which had the highest benefit:cost ratio in order to maximize revenue to the state. These revenue loss mitigation steps were discussed in the overview section of the Department. The result was an increased buildup of workload which was set aside, even though this represents work that can be efficiently and effectively undertaken. This workload consists of direct revenue production including new and expanded audits, return processing, and additional filing enforcement efforts.

The contingent portion of the BCP—exemption from any 2010-11 furlough programs—would generate $860 million in revenue. In order to accomplish a reduction in the accumulated backlog of work, FTB has additionally requested $14.7 million General Fund and 158 PYs for the budget year. The request is for $9,193,000 in overtime and 158 PYs with associated compensation of $4,818,000. All funding/positions are temporary and only for the 10/11 fiscal year. This will consist entirely of overtime and temporary help authorization and result in revenues of $50 million in the budget year.

In response to questions from the Chair and member regarding positions, FTB provided additional detail regarding the request. 98 positions are seasonal clerks and students, 55 positions are data entry and tax compliance positions, and 5 are analyst and IT positions necessary to support the processes and systems impacted by additional staffing levels. Positions will be filled predominantly with seasonal permanent intermittent staff, retired annuitants, and student assistants. Overtime funding will be used for existing staff. The 158 temporary positions and overtime funding allow us to work on tasks not completed in 2009/10 and recovers $50 million of the $465 million. The following tasks are a few of the tasks these resources will be used for:

1. Close existing collection cases faster and open new ones (overtime, seasonal staff, and students assistants);

2. Open audits that would otherwise not be open but noncompliance has been identified (overtime and retired annuitants); and,

3. Key critical data from the 2009 tax returns that is critical in our efforts to evaluate compliance on returns filed and prioritize existing collection accounts (overtime and seasonal staff).

Staff Recommendation: Approve.

ISSUE 3: ACCOUNTS RECEIVABLE GROWTH

FTB maintains an inventory of accounts receivable, which is subject to collection efforts based on criteria including: the potential revenue, the probability of collection, and the costs of such collection efforts. FTB's accounts receivable inventory has increased steadily of the last three years—with personal income tax accounts receivable up by 25 percent and business entity up by 43 percent. In August 2009, the accounts receivable balance was $8.1 billion, of which $5.5 was deemed collectible.

The accounts receivable increase is due to a variety of factors, including:

- Staff reductions at FTB from the furloughs;
- Increase in taxpayers unable to pay their taxes;
- Reduction in the ability to resolve cases early in the process; and,
- Increase in the number of filing enforcement actions.

FTB's tax collection activities against accounts receivable include both an automatic billing system as well as staff administered activities. The automated system manages the collection process by issuing billings, notices, levies, and attachment of assets. FTB staff then follow-up on the cases that require addition work to reach resolution. In order to reduce the accounts receivable inventory to a reasonable level and maintain it, FTB proposes to maximize the use of data and enforcement tools, enhance the call center technology to resolve cases early in the process, and out-source certain cases to vendors

The request is for $8.2 million General Fund to for 11 permanent positions to reduce FTB's accounts receivable to a reasonable level and maintain it. Estimated revenues for the augmentation are $52.5 million in 2010-11 and $111 million in 2011-12. This would result in benefit:cost ratios for each of the respective years of 6.4:1 and 14:1.

STAFF COMMENTS

It is not clear why permanent positions are necessary for this activity. The increase in accounts receivable inventory appears to be the result of short-term economic and budgetary influences rather than long-term trends that have developed in accounts receivable. In addition, the staff that would be directed to this activity does not require the same type of training as other activities in the Department that are of a more technical nature. This suggests that limited-term positions would be appropriate.

Staff Recommendation: Approve, based on 2-year limited-term positions.

ISSUE 4: HOMEBUYER TAX CREDIT WORKLOAD

The Legislature adopted statutes that established a tax credit equal to the lesser of $10,000 or 5 percent of the home purchase price for first time homebuyers and purchasers of new homes. The FTB will administer the credit in a manner that will allow a total amount of credits not to exceed $200 million over the life of the program. Activities required of FTB to administer the program include maintaining credit reservations, accepting and reviewing credit applications, reviewing certifications of purchase contracts, accepting and reviewing settlement statements, and maintaining a waiting list. The program is similar too, but larger, than a similar tax credit program last year. FTB cites a number of higher cost factors in the new program and requests additional resources of $887,000 General Fund and 9 positions.

STAFF COMMENTS

The tax credit program replaces a $100 million credit program which was in effect last year. FTB received 3 limited-term positions. The program is twice as large, but not twice as complex. Given this, there is little justification for a tripling of resources. Staff recommendation is based on similar fixed costs for this program and the prior one. A modest increase from the resources needed for the prior program is justified.

Staff Recommendation: Approve 6 positions for a 1-year limited-term.

0690 CALIFORNIA EMERGENCY MANAGEMENT AGENCY

The California Emergency Management Agency (Cal EMA) is tasked with reducing the vulnerability to hazards and crimes through emergency management and criminal justice. During an emergency, the Cal EMA functions as the Governor's immediate staff to coordinate the state's responsibilities under the Emergency Services Act and applicable federal statues. It also acts as the conduit for federal assistance through natural disaster grants and federal agency support. Additionally, the Cal EMA is responsible for the development and coordination of a comprehensive state strategy related to all hazards that includes prevention, preparedness, and response and recovery. Further, the Cal EMA administers grant finances and technical assistance to local governments, state agencies and the private sector for public safety and victim services.

Totals	Actual 2008-09	Estimated 2009-10	Proposed 2010-11
Total Personnel Years (All Programs)	538.7	620.3	620.1
Total Expenditures (All Funds)	$904 million	$1.6 billion	$1.5 billion
General Fund	$160 million	$138 million	$125 million

Issue 1: ARRA STIMULUS FUNDS –OVERSIGHT

Background. The CalEMA is the state administering agency for three federal stimulus grants provided under the American Recovery and Reinvestment Act (ARRA). These three grant programs total about $150 million for public safety and victims assistance related purposes. The following three programs are as follows:

1. Byrne/JAG ($136 million). The Edward Byrne Justice Assistance Grant (Byrne/JAG) Program is administered by the federal Bureau of Justice Assistance and provides states, tribes, and local jurisdictions with funding to support a range of program areas including law enforcement, prosecution and court, prevention and education, corrections and community corrections, drug treatment and enforcement, planning, evaluation, technology improvement, and crime victim and witness initiatives.

2. Violence Against Women Act ($12.0 million). The Violence Against Women Act (VAWA) was adopted by Congress in 1994 and is designed to improve criminal justice responses to domestic violence, sexual assault, and stalking, as well as to increase the availability of services to victims of these crimes.

3.Victims of Crime Act ($2.8 million). The Victims of Crime Act (VOCA) was adopted by Congress in 1984 and provides funding to improve the accessibility and quality of services for victims of crime. Funds go to support victim services and compensation programs, including crisis intervention, counseling, emergency shelters, and victims advocacy.

Audit Issue. An audit by the California State Auditor released May 4, 2010 explored the Cal EMA's preparedness to receive and administer the American Recovery and Reinvestment Act of 2009 (Recovery Act) funds. The Federal Government enacted the Recovery Act to preserve and create jobs; promote economic recovery; assist those most affected by the recession; invest in transportation, environmental protection, and other infrastructure; and stabilize state and local government budgets.

The audit reveals that despite having been awarded $136 million in Byrne/JAG funds in June of 2009, the Cal EMA has only recently begun awarding these funds. This is nearly 12 months after the passage of the Recovery Act and eight months after the U.S. Department of Justice awarded the funds. The audit alludes to the fact that this delay has violated one general principle of the Recovery Act, which is that the funds be used to "achieve its purposes as quickly as possible, consistent with prudent management."

Audit Findings. The audit found that the Cal EMA has only awarded (not disbursed) 26 percent of total funds.

Date	Awarded Subgrants	Total funding	Percent from Byrne/JAG funds
February 22, 2010	4	$4 million	3%
March 11, 2010	52	$31 million	23%
Total	56	$35 million	26%

The Cal EMA Director of Grants Managements also stated (as quoted in the audit) that disbursement of Recovery Act JAG Program funds would not begin until "the thirds or fourth quarter of fiscal year 2009-10" and significant disbursement would most likely begin until "the second and third quarters for fiscal year 2010-11." This would mean that substantial disbursement would occur 1.5 years after the passage of the Recovery Act and more than a year after Cal EMA received the JAG Program grant.

The audit also found that the Department lacks a monitoring procedure with proper documentation, workload estimates and has incurred administrative cost. In fact, to date the Department has spent $108,000 in administrative cost, despite being awarded $592,000 for 2009-10. The Subcommittee heard/approved a budget proposal for this purpose on April 20th, where the Department requested $800,000 for administrative cost, but the Committee awarded them $592,000 for fiscal year 2010-11.

Audit Recommendations. The Audit recommendations are as follows:

1. As soon as possible, Cal EMA should execute subgrant agreements with subrecipients so California can more fully realize the benefits of the Recovery Act funds;

2. The Cal EMA should plan its monitoring activities to provide reasonable assurance that its subrecipients administer federal awards in accordance with laws, regulations, and the provisions of contracts or agreements;

3. The Cal EMA should identify the workload associated with monitoring its Recovery Act JAG Program subrecipients and the workload standards necessary to determine the number of program staff needed; and,

4. The Cal EMA should develop the necessary procedures to ensure that it accurately meets its Recovery Act reporting requirements.

Panel

- California State Auditor (CSA)
- Cal EMA
- Department of Finance
- Legislative Analyst's Office

Questions:

CSA

Please summarize your findings and recommendations.

Should the Legislature be concerned with the delays in administering the funds?

From your research, have we violated any ARRA accountability objectives?

How does the Cal EMA compare to other Departments who also administer federal/ARRA funds?

Is there a state that has successfully disbursed ARRA funds? What agency is administering the ARRA funds in that state?

Cal EMA

Does the Department have an update?

Please describe the process (steps) from request for applications (RFA's) to final disbursement of the funds.

What is the monitoring process in place and how does it comply with federal laws, regulations and provisions?

How is Cal EMA meeting Recovery Act reporting requirements?

What are the limitations to administering the funds?

What are the Departments plans to adopt the audit recommendations?

From the Departments view, is there a better measure to assess Cal EMA's preparedness to receive and administer the funds? If so, what is it?

LAO

Please provide your position on this issue.

If the Department is unable to provide the U.S. Office of Management and Budget the appropriate monitoring documentation, could the funds be jeopardized?

STAFF COMMENT

It is an initial concern that the Cal EMA only awarded 26 percent of funds as of March 11, 2010. It is perhaps more alarming that they had not disbursed funds and lacked a plan to do so. However, in response to the audit, the Cal EMA provided a letter update noting that they had completed 90 percent of applications for all ARRA JAG funds. This is a step in the right direction, but the funds have not reached locals for several reasons. One of the reasons may be that the funds are reimbursed (recipients must spend the money up front). Ultimately, it is in the Subcommittees interest to monitor the Departments progress, as the Department was awarded administrative funds in the amount of $592,000 for fiscal year 2010-11 and the federal government awarded the funds to aid California.